HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.15708 of 2006

Date : 28-07-2006

Between:

D. Mallesh

… Petitioner/s

and

A.P.S.R.T.C., rep.by its
Vice Chairman & Managing Director,
Musheerabad, Hyderabad and another.

…Respondent/s

HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.15708 of 2006

O R D E R :

This writ petition is filed seeking mandamus declaring the Officer Order No.P1/468(1)/06-NRML, dated 9-5-2006 passed by the second respondent in retiring the petitioner from service without providing alternative employment as per the provisions of Section 47 of the Persons with Disabilities (Equal Opportunities Protection of Rights and full participation) Act, 1995 (for brevity 'the Act'), as being arbitrary, illegal and set aside the same, and consequently direct the respondents to provide alternative employment with all benefits including the arrears.

It is the case of the petitioner that he joined as Driver in the respondent Corporation on regular basis on 1-7-1988. While so, during periodical medical examination by the Medical Board of the respondent Corporation, the petitioner was declared unfit for the post of Driver and subsequently by the impugned proceedings dated 9-5-2006, the respondents have retired the petitioner from service without providing any alternative employment. In spite of making an application dated 22-5-2006 bringing to the notice of the respondents about the various judgments of this Hon'ble Court, wherein this Hon'ble Court directed the respondent management to provide

alternative employment under the provisions of the Act to the petitioners therein, the respondents have not considered the case of the petitioner for alternative employment. Hence the present writ petition.

Heard learned counsel for the petitioner and the learned standing counsel for the respondents Corporation.

A Division Bench of this Court in ***N.Siva Kumar v. APSRTC, Musheerabad, Hyderabad***[1] considered similar issue and directed the respondent authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under:-

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In the present case, the application dated 22-5-2006 made by the petitioner, seeking alternative employment as per
Section 47 of the Act is said to be pending consideration before respondents. Hence, I deem it appropriate to dispose of the writ petition directing respondents to consider the application of the

petitioner dated 22-5-2006 and pass appropriate speaking orders in accordance with law, particularly in the light of Section 47 of the Act, expeditiously.

With the above direction, the writ petition is disposed of.

No costs.

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N.V. RAMANA, J

28-07-2006.
Msr.

HON'BLE SRI JUSTICE N.V. RAMANA

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28-07-2006
(Msr)

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[1] 2001 (3) ALD 166 (DB)